CERTIFICATE OF COUNSEL

I, the undersigned, one of the counsel for the above named appellant, do hereby certify that the foregoing motion for rehearing is not presented for purposes of vexation or delay, but is, in my opinion, well founded in law and fact and proper to be filed herein.

FRANK E. WOOD,
Attorney for Petitioners.

APPENDIX A

No. 1190

25TH JUDICIAL DISTRICT COURT
PARISH OF PLAQUEMINES
STATE OF LOUISIANA

MT. FOREST FUR FARMS OF AMERICA, INC., ET AL.

v.

ERNEST COCKRELL, ET AL.

To Mt. Forest Fur Farms of America, Inc., through Lazarus, Weil & Lazarus, its counsel of record.

NOTICE IS HEREBY GIVEN to each of the plaintiffs, through his or its counsel of record, that a rule has issued herein, directed to each of the plaintiffs, ordering and commanding them, to show cause, on the 19th day of February, A. D. 1942, why the above numbered and entitled suit should not be dismissed, for the reason that the plaintiffs must be considered as having abandoned the same inasmuch as five years have elapsed since plaintiffs made their demand without the plaintiffs or any of them having taken any steps in the prosecution thereof.

By order of the Court:

Witness the Honorable Henry L. Himel, Temporary Judge.

Parish of Plaquemines, January 22, 1942.

A. L. LOBRANO,
Clerk of Court.

No. 1190

TWENTY-FIFTH JUDICIAL DISTRICT COURT OF LOUISIANA, IN AND FOR THE PARISH OF PLAQUEMINES

MT. FOREST FUR FARMS OF AMERICA, INC., et al.,

v.

ERNEST COCKRELL, et al.

MOTION OF DEFENDANTS, ERNEST COCKRELL AND HEROLD, COUSIN & HEROLD, TO DISMISS THE ABOVE NUMBERED AND ENTITLED SUIT AS HAVING BEEN ABANDONED BY THE PLAINTIFFS

On motion of Plauche and Plauche, and Herold, Cousin & Herold, counsel of record for the defendants, Ernest Cockrell, the firm of Herold, Cousin & Herold, and the individual members thereof, and on their suggesting to the Court that more than five years have elapsed since the plaintiffs made their demands in the above numbered and entitled cause, without the plaintiffs, or any of the plaintiffs, having taken any steps in the prosecution thereof; and on their further suggesting to the Court that the plaintiffs, and each of them, must be considered as having abandoned the above numbered and entitled suit; and on their further suggesting to the Court that your defendants are entitled, therefore, to have the said suit dismissed; all as provided by Article 3519 of the Revised Civil Code of Louisiana, as amended;

IT IS ORDERED that a rule issue herein, directed to each of the plaintiffs, through his or its counsel of record, ordering and commanding them, and each of them, to show

cause, on the 19th day of February, A. D., 1942, why the above numbered and entitled suit should not be dismissed, for the reason that the plaintiffs must be considered as having abandoned the same inasmuch as five years have elapsed since plaintiffs made their demand without the plaintiffs or any of them having taken any steps in the prosecution thereof.

Donaldsonville, Louisiana, January 20, A. D., 1942.

HENRY L. HIMEL,
District Judge.

Of Counsel:

HEROLD, COUSIN & HEROLD,
By S. W. PLAUCHE, JR.,
PLAUCHE AND PLAUCHE.

APPENDIX B

Article 3519 of the Civil Code, which appears under the Chapter dealing with prescription, provides (as amended by Act 107 of 1898):

> "If the plaintiff in this case, after having made his demand, abandons or discontinues it, the interruption shall be considered as having never happened.
>
> "Whenever the plaintiff having made his demand shall at any time before obtaining final judgment allow five years to elapse without having taken any steps in the prosecution thereof, he shall be considered as having abandoned the same."